

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

HAROLD D. ISAAC,

Plaintiff,

v.

MISSOURI DEPARTMENT  
OF CORRECTIONS, et al.,

Defendants.

No. 1:19-cv-00173-NAB

**MEMORANDUM AND ORDER**

This matter is before the Court on its own motion. On November 19, 2019, the Court ordered plaintiff to file an amended complaint. (Docket No. 5). The Court also ordered plaintiff to either submit a motion for leave to proceed in forma pauperis or pay the filing fee. Plaintiff was given thirty days in which to comply. He has not responded. Therefore, for the reasons discussed below, this action will be dismissed without prejudice. *See* Fed. R. Civ. P. 41(b).

**Discussion**

Plaintiff is a pro se litigant currently incarcerated at the Potosi Correctional Center in Mineral Point, Missouri. On September 30, 2019, he filed a document with the Court that was construed as a civil complaint pursuant to 42 U.S.C. § 1983. (Docket No. 1). The complaint was handwritten and not on a Court form. Plaintiff also failed to either pay the filing fee or file a motion to proceed in forma pauperis.

On November 19, 2019, the Court directed plaintiff to file an amended complaint on a Court form. (Docket No. 5). The order contained instructions for plaintiff to follow in drafting his amended complaint. The Court further directed plaintiff to either pay the filing fee or file a motion to proceed in forma pauperis. In order to aid plaintiff, he was sent copies of the Court's prisoner

civil rights complaint form, and a copy of the Court's motion to proceed in forma pauperis form. Plaintiff was given thirty days to comply. He was advised that failure to comply would result in the dismissal of this action without prejudice and without further notice.

On December 12, 2019, mail sent to plaintiff was returned as undeliverable. (Docket No. 6). The Clerk of Court resent the order to plaintiff's new address.

The thirty days given to plaintiff to comply with the Court's order has expired. Indeed, significantly more than thirty days have elapsed since the Court's order was resent to plaintiff on December 12, 2019. Despite being given more than thirty days to respond, plaintiff has not submitted an amended complaint. He has also failed to either pay the filing fee or file a motion to proceed in forma pauperis. Furthermore, plaintiff has not filed a motion seeking an extension of time.

Under Rule 41(b), an action may be dismissed for failure to comply with a court order. *See* Fed. R. Civ. P. 41(b). *See also Brown v. Frey*, 806 F.2d 801, 803 (8<sup>th</sup> Cir. 1986) (stating that a district court may dismiss a pro se litigant's action for failure to comply with a court order on its own initiative). Because plaintiff has not complied with the Court's November 19, 2019 order, or filed any sort of motion seeking an extension of time in which to comply, the Court will dismiss this action without prejudice.

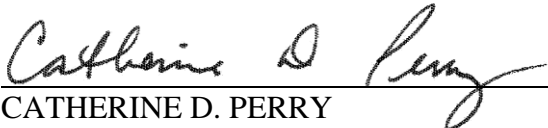
Accordingly,

**IT IS HEREBY ORDERED** that this action is **DISMISSED** without prejudice for failure to comply with the Court's order of November 19, 2019. *See* Fed. R. Civ. P. 41(b). A separate order of dismissal will be entered herewith.

**IT IS FURTHER ORDERED** that this dismissal will not constitute a "strike" under 28 U.S.C. § 1915(g).

**IT IS FURTHER ORDERED** that an appeal from this dismissal would not be taken in good faith.

Dated this 18th day of February, 2020.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE